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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 STACEY VANDELL and ROBERT
9 VANDELL, for themselves and as
10 parents of J.V. and R.V., both minors,

11 Plaintiffs,

12 v.

13 LAKE WASHINGTON SCHOOL
14 DISTRICT,

15 Defendant.

C19-2042 TSZ

ORDER

16 THIS MATTER comes before the Court on Plaintiff's Motion for Granting
17 Parent's Appeal and Remand as to Remaining Claims, docket no. 18. Having reviewed
18 all papers filed in support of, and in opposition to, the motion, the Court enters the
19 following order.

20 **Background**

21 Because the parties are familiar with the facts, this order gives only a brief
22 recitation of the relevant background.

23 On March 12, 2019, Judge Coughenour entered an order in the related case
brought by the Plaintiffs under cause no. 18-0785, affirming the administrative law

1 judge's (ALJ) dismissal of Plaintiffs' claims for the 2012–2013 and 2013–2014 school
2 years. Order (docket no. 3-2) at 8. With respect to the 2014–2015 school year, the Order
3 noted that “some language in the complaint appears to be protesting the District's actions
4 in the 2014–15 school year.” *Id.* That Order then stated that “to the extent the complaint
5 alleges District failures in the 2014–15 school year, those claims may not be time-
6 barred.” *Id.* at 8–9. That Order concluded that “[t]he ALJ's order is REVERSED as to
7 Plaintiffs' claims about the 2014–15 school year and REMANDED to determine whether
8 those claims are time-barred and whether they have merit.” *Id.* at 10.

9 On remand, the ALJ noted that he had engaged in a thirty-minute discussion with
10 the Plaintiffs to identify the issues raised in their due process complaint. Final Order on
11 Remand from District Court (docket no. 3-3) at 2. During this discussion, the parents'
12 counsel clarified that the period at issue was the three full years from 2011–2014. *Id.*
13 The ALJ then drafted a statement of the issues, which provided that the issue was
14 “[w]hether the District violated the [Individuals with Disabilities Education Act (IDEA)]
15 and denied the Students a free appropriate public education (FAPE) during the **2011-12,**
16 **2012-13, and 2013-14 schoolyears** [sic].” *Id.* (emphasis in original). Neither party
17 objected to the ALJ's statement of the issues. *Id.* at 3. Ultimately, the ALJ “concluded
18 that the Parents' [Due Process] Complaint, filed December 6, 2016, raises no issue
19 related to the 2014-2015 school year or beyond for either of the Students.” *Id.* at 6. The
20 ALJ dismissed the due process complaint for both students. *Id.*

1 Plaintiffs have now filed a new action in this Court seeking relief for the 2014–
2 2015 school year. Plaintiffs seek to remand issues relating to that school year to the ALJ
3 for further proceedings.

4 **Standard of Review**

5 In IDEA cases, the Court gives “due weight” to state administrative proceedings
6 and “particular deference to ‘thorough and careful’ administrative findings.” *JG v.*
7 *Douglas Cnty. Sch. Dist.*, 552 F.3d 786, 793 (9th Cir. 2008). Findings are “thorough and
8 careful” when the presiding officer “participates in the questioning of witnesses and
9 writes a decision ‘contain[ing] a complete factual background as well as a discrete
10 analysis supporting the ultimate conclusions.’” *R.B., ex rel. F.B. v. Napa Valley Unified*
11 *Sch. Dist.*, 496 F.3d 932, 942 (9th Cir. 2007).

12 The ALJ conducted a hearing and wrote a decision with both a complete factual
13 background and a discrete analysis supporting the conclusions. *See* Final Order on
14 Remand from District Court at 1–6. These findings were thorough and careful. The
15 Court gives the ALJ’s findings deference.

16 **Discussion**

17 The Plaintiffs first contend that Judge Coughenour’s Order already decided that
18 their original due process complaint raised issues for the 2014–2015 school year. This
19 argument, however, is not consistent with the language used in that Order. As opposed to
20 deciding that the Plaintiffs’ due process complaint raised issues for the 2014–2015 school
21 year, that Order merely states that the due process complaint “appears to be protesting the
22 District’s actions in the 2014–15 school year” and that these claims may not be time-

1 barred “to the extent” the due process complaint raised them. Order at 8–9. But this
2 language did not decide the issue. Rather, unsure as to whether the ALJ had assumed that
3 the due process complaint only concerned the 2012–2013 and 2013–2014 school years,
4 that Order directed the ALJ to determine the extent to which the due process complaint
5 raised issues for the 2014–2015 school year.

6 Plaintiffs next assert that their original due process complaint raised issues for the
7 2014–2015 school year, but this Court rejects that argument. “[T]he general rules
8 applicable for administrative hearings contained in chapter 10-08 WAC govern the
9 conduct of the due process hearing.” WAC 392-172A-05100(6). In adjudicative
10 proceedings, the presiding officer may hold a prehearing conference to consider
11 simplification of the issues. WAC 10-08-130(1)(a). “Following the prehearing
12 conference, the presiding officer shall issue an order reciting the action taken at the
13 conference, the amendments allowed to the pleadings, and the agreements made by the
14 parties concerning all of the matters considered.” WAC 10-08-130(3). If neither party
15 objects to the order, it controls the subsequent course of the proceeding. *Id.*

16 The ALJ’s statement of issues did not include the 2014–2015 school year.
17 Because neither party objected to the statement, it controlled the subsequent proceedings.
18 Additionally, the ALJ’s statement of issues was consistent with the Plaintiffs’ due
19 process complaint which did not allege any FAPE violations for the 2014–2015 school
20 year. *See* Administrative Record (AR) (docket no. 15) at 630. Although the due process
21 complaint referenced the “2011/2012/2013/2014 school years,” the ALJ clarified with the
22 Plaintiffs’ counsel during the prehearing conference that this referenced the three full
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1 school years of 2011–2012, 2012–2013, and 2013–2014. *Id.* at 632; Final Order on
2 Remand from District Court at 5. This was not a situation where the ALJ restated and
3 reorganized the issues the parties presented. *See M.C. by and through M.N. v. Antelope*
4 *Valley Union High Sch. Dist.*, 858 F.3d 1189, 1196 n.2 (9th Cir. 2017) (questioning the
5 “apparently common practice in IDEA cases” of ALJs restating and reorganizing the
6 issues parties present where counsel represents the parents and the complaint states the
7 issues intelligibly). Finally, although the Plaintiffs attempt to rely on their Statement of
8 Clarification to demonstrate that they raised issues for the 2014–2015 school year in their
9 due process complaint, they submitted the Statement of Clarification prior to the ALJ
10 issuing his statement of issues—which did not include claims for the 2014–2015 school
11 year and to which the Plaintiffs did not object. AR at 932–33 (Statement of
12 Clarification); Final Order on Remand from District Court at 1–3.

13 Because Plaintiffs failed to raise an issue regarding the 2014–2015 school year in
14 their due process complaint or at any time before the ALJ, the Court lacks subject-matter
15 jurisdiction over claims relating the 2014–2015 school year. *J.L. v. Mercer Island Sch.*
16 *Dist.*, 592 F.3d 938, 952 (9th Cir. 2010) (determining district court lacked subject-matter
17 jurisdiction over an issue in an IDEA action where the plaintiff did not raise the issue in
18 their administrative complaint or the due process hearing and therefore the ALJ had not
19 addressed it); RCW 34.05.554 (“Issues not raised before the agency may not be raised on
20 appeal . . .”). The Court further determines that Plaintiffs, who were represented by
21 counsel, waived the right to raise any issue regarding the 2014–2015 school year by
22 failing to raise it before the ALJ. *Meanel v. Apfel*, 172 F.3d 1111, 1115 (9th Cir. 1999)

1 (concluding that “at least when claimants are represented by counsel, they must raise all
2 issues and evidence at their administrative hearings in order to preserve them on appeal”).

3 For the reasons stated in this order, the Court concludes as a matter of law that
4 Plaintiffs’ due process complaint did not raise issues for the 2014–2015 school year. The
5 Court DENIES their motion to remand, and holds that this case can be dismissed with
6 prejudice.

7 **Conclusion**

8 For the foregoing reasons, the Court ORDERS:

9 (1) The Plaintiffs Appeal and Motion for Remand, docket no. 18, is DENIED;

10 (2) The Court Affirms the ALJ’s Final Decision on Remand from District
11 Court (docket no. 3-3) relating to the 2014–2015 school year and DISMISSES this case
12 with prejudice and with costs;

13 (3) The Clerk is directed to enter judgment consistent with this order.

14 IT IS SO ORDERED.

15 Dated this 16th day of November, 2020.

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17 THOMAS S. ZILLY
18 United States District Judge
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